X:HC-1478

(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MAC 916 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	APPELLANT: NON-APPLICANT 4 & 5 (Father & Mother)	1. Anjani Kumar, S/o Ramadhin, Aged about 55 years. 2. Mohari Bai, W/o Anjani Kumar, Aged about 50 years, R/o Village Dubchhola, P.S. Khadgawa, Distt. – Korea (CG)
		-Versus-
	RESPONDENTS: CLAIMANTS	1. Smt. Rajeshwari, Widow Late Gopal Singh, Aged about 25 years, R/o B-Type, Godripara, Chirmiri, Distt. Korea (C.G.) 2. Krishna, S/o Late Goptal Singh, Aged about 2 month Through: Natural Guardian, Mother Rajeshwari, Widow Late Gopal Singh, R/o B-Type, Godripara, Chirmiri, District – Korea (C.G.)
	DRIVER:	3. Ajij Mohammad, S/o Najir Mohammad, R/o Chhoti Bazar, Chirmiri, Tahsil Manendragarh, District Korea (C.G.) (Tipper Truck Driver)
	OWNER:	4. Sajan Kumar Patodiya, C/o Bilaspur Pole Careers Pvt. Ltd., Jet Hostel Sonwani Colliery Manendragarh, District Korea (C.G.) (Vehicle Owner)
	INSURER:	5. Bajaj Alliance General Insurance Company Limited Zee Plaza, Airport Road, Yar

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Bada, Pune, Pin 411006, Through: Branch Manager, Maikmet Building 10 B. O.C. Ganguli Sourbi Kolkatta 700020 (West Bengal)

(Miscellaneous Appeal under Section 173 of the Motor Vehicle Act)

Division Bench: -

Hon'ble Shri L.C. Bhadoo &

Hon'ble Shri Sunil Kumar Sinha, JJ.

17-8-2007:-

Shri Rahul Mishra, counsel for the appellants.

Oral order dictated on *Dais*.

L.C. BHADOO, J.

The appellants who are mother and father of deceased Gopal Singh have preferred this appeal under Section 173 of the MV Act, being aggrieved by the award dated 28-4-2007 passed by the 1st Additional Motor Accidents Claims Tribunal, Manendragarh, in claim case No.37/2007 whereby learned Tribunal allowed the claim petition filed by Smt. Rajeshewari, widow of Gopal Singh (since deceased) and Krishna, 2 months old son of Gopal Singh & claim to the tune of Rs.15,43,000/- has been passed in their favour. The Tribunal has arrived at a conclusion that the appellants herein were not dependent on deceased Gopal Singh.

In the said claim petition, the appellants herein were joined as respondents No.4 & 5 by the claimants, widow of the deceased. The Tribunal in para-10 of the award has reached to the conclusion that in cross-examination, Mohari Bai (appellant No.2 herein) has stated that

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Gopal Singh was her son. Son of Gopal Singh is residing with his mother. They never brought wife of the deceased to their place nor she went to her daughter-in-law's place. She along with her husband was earning their livelihood on their own. They were never dependent on their son. Today also they are earning their livelihood in the same manner. Thereby the Tribunal reached to the conclusion that from the evidence of the appellants herein, it is established that they were not dependent on the earning of Gopal Singh. During the course of arguments, learned counsel for the appellants submitted that the appellants herein have their own land and they are earning livelihood through agricultural income. Apart form that, he also submitted that there are already 3 other sons of the appellants herein. The appellants herein have failed to adduce any cogent and legal evidence to establish that they were dependent on the earning of deceased Gopal Singh. Moreover, they never filed any claim petition claiming that they were dependent on the earning of Gopal Singh. Therefore, finding of the Tribunal that the appellants herein were not dependent on the earning of Gopal Singh is not perverse. We do not find any ground to interfere with the finding of the Tribunal. The appeal being devoid of merit, is liable to be dismissed and it is hereby dismissed at the admission stage itself. **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Sunil Kumar Sinha** **Judge**
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